IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.370 OF 2004

Mr.Ashok Babasaheb Karande .. Petitioner
V/s
Municipal Corporation of Gr.Bombay & Ors.. Respondents

Mr. V.M. Thorat for the Petitioner.
Ms. N.V.Sanglikar for the Respondents.

CORAM: F.I.REBELLO, &
S.P.KUKDAY, JJ.

DATE : 22.03.2005.

P.C.:

1. Petitioner challenges his non-selection in the year 1989. He had filed a petition before this Court being Writ Petition No.2708 of 2002. That came to be disposed of by an order dated 24.10.2002. The Petitioner was called upon to make a representation to the Respondents and the Respondents were called upon to hear and dipose of the said representation.

2. By the letter dated 12.2.2003, the Respondent No.1 informed the petitioner that when the selection procedure was initiated, there was departmental enquiry pending against the petitioner herein and in the pending enquiry punishment was imposed for stoppage of increment for one year, and in the appeal preferred by the petitioner the punishment was reduced to a written warning.

3. At the hearing of this petition, on behalf of the

peititioner it is contended that the said warning could not have been held against him and he ought to have been considered for promotion alongwith other Respodnents. It is further submitted that Mr.Sawardekar against whom also the punishment by way of warning has been imposed has been selected. The contention is that the Respondent Corporation amongst its employees cannot treat them differently.

4. Having heard the learned Counsel, we are of the view that there is no merit in this petition. Firstly it was open to the Respondents, if the departmental enquiry was proceeding against the petitioner to follow the sealed cover procedure. We are not in a position to know exactly, as to what was the position in the instant case. Suffice is to say that punishment was imposed on the petitioner. Once that be the case, the petitioner cannot have a grievance that his non-selection is arbitrary or violative of the rules and or articles 14 & 16 of the Constitution of India. This contention has to be rejected.

5. So far as the second contention is concerned, it is not the case of the petitioner that against Respondents Nos.4 to 11 to this petition, there was any enquiry and though punishment was imposed against them, yet they were selected. Grievance is in respect of a party who is not a party to this petition. Merely because the Respodnent have selected some other persons that by

itself would not mean that this court should issue a writ in favour of the petitioner. The other party is not before us to know the exact factual position.

6. For the aforesaid resaons, we do not find this to be a fit case to exercise the extra ordinary jurisdiction of this Court. In the light of that, petition dismissed.

(F.I.REBELLO, J.)

(S.P.KUKDAY, J.)